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IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA

| United States of America, |) | |
|---------------------------|---|------------------------|
| Plaintiff, |) | No. CR 04-1864 TUC JMF |
| vs. |) | ORDER |
| Eduardo Cardoza-Lopez, |) | |
| Defendant. |) | |
| |) | |

Pending before this Court is Defendant's "Petition Requesting copies of Case File and or for the Court to issue an Order for the Counsel of Record to provide the Defendant with said copies." Defendant argues that he is contemplating filing a motion under 28 U.S.C. § 2255 and that the documents are imperative to his preparation of that motion. However, he has not yet filed a section 2255 motion and is currently represented by counsel in his criminal matter.

A criminal defendant has an absolute right to represent himself or to be represented by an attorney. *United States v. Olano*, 62 F.3d 1180, 1193 (9th Cir. 1995); *United States v. Halbert*, 640 F.2d 1000, 1009 (9th Cir. 1981). However, a "defendant does not have a constitutional right to 'hybrid' representation." *United States v. Kienenberger*, 13 F.3d 1354, 1356 (9th Cir. 1986). Therefore, this Court will not order counsel to provide records.

An indigent defendant who has filed a motion pursuant to 28 U.S.C. § 2255 may have

a right to copies of the record under 28 U.S.C. § 2250. However, under section 2250, an indigent petitioner is required to make a definite statement in his petition of his grounds for relief so that the Court may determine which portions of the record should be provided. Defendant has neither filed a motion under section 2255 nor been given permission to proceed in forma pauperis. Defendant has no right to copies of the record at the government's expense during his *preparation* of a section 2255 motion. *United States v. Connors*, 904 F.2d 535, 536 (9th Cir. 1990).

Accordingly,

IT IS ORDERED that Defendant's petition (Doc. No. 23) is **DENIED**.

DATED this 24th day of February, 2006.

John M. Roll

United States District Judge